

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA**

MARGARET VIOLET JENKINS WILLIAMS,

Petitioner,

v.

**Civil Action No. 3:07cv152
(Judge Bailey)**

UNITED STATES OF AMERICA,

Respondent.

**OPINION/REPORT AND RECOMMENDATION
THAT MOTION TO PROCEED
IN FORMA PAUPERIS BE DENIED**

On November 20, 2007, the *pro se* petitioner initiated this case by filing a petition for writ of mandamus against the respondent. This case is before the undersigned on the petitioner's Application for Leave to Proceed Without Prepayment of Fees, executed Consent to Collection of Fees form, and Prisoner Trust Account Report with attached ledger sheets.

The ledger sheets and certified copy of the petitioner's inmate account statement reveal that the petitioner had an account balance of \$358.99 at the time this case was filed. Consequently, the petitioner had sufficient funds to pay the \$350.00 filing fee at the time this case was filed. In addition, the petitioner's ledger sheets reflect that she received over \$1200 in deposits during the six months preceding the filing of this action, and that at any given time, the petitioner maintains more than \$260 dollars in her inmate account. In fact, most times, the petitioner maintains more than \$300 in her account, upwards of \$398.

Accordingly, in light of the information disclosed by the submitted financial forms, it is the undersigned's recommendation that the petitioner's Application for Leave to Proceed Without the

Prepayment of Fees (Dckt. 6) be **DENIED** and the petitioner be ordered to pay the full filing fee. The petitioner should also be warned that the failure to pay the full filing fee within the time allowed by the Court will result in the dismissal of her petition.

The petitioner may file, within ten (10) days after being served with a copy of this Recommendation, written objections to the Clerk of Court identifying those portions of the Recommendation to which objections are made, and the basis for such objections. A copy of such objections should also be submitted to the Honorable John Preston Bailey, United States District Judge. Failure to timely file objections to the Recommendation set forth above will result in waiver of the right to appeal from a judgment of this Court based upon such Recommendation. 28 U.S.C. § 636(b)(1); Thomas v. Arn, 474 U.S. 140 (1985); Wright v. Collins, 766 F.2d 841 (4th Cir. 1985); United States v. Schronce, 727 F.2d 91 (4th Cir. 1984), cert. denied, 467 U.S. 1208 (1984).

The Clerk of the Court is directed to mail a copy of this Opinion/Report and Recommendation to the *pro se* plaintiff by certified mail, return receipt requested, to her last known address as shown on her docket sheet.

DATED: December 5, 2007.

/s/ John S. Kaull
JOHN S. KAULL
UNITED STATES MAGISTRATE JUDGE